



The APPRAISER

A PUBLICATION OF THE ARKANSAS APPRAISER LICENSING & CERTIFICATION BOARD

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Opinion of Value

By **Jim Martin**
Executive Director

Members of the Board's Education Committee often have voiced concern about and discussed what might be causing the dismal pass rate by Arkansas applicants sitting for the various appraisal exams.

They also have wondered what the candidates' major deficiencies were with respect to the 15 measured subjects on the exams.

The Board had the raw data on hand to provide answers to these questions, so we set about to do the necessary research and comparisons.

In the most comprehensive approach we took of the several used, we examined the accumulative data for each classification over a number of years to arrive at an average pass ratio. Included were data on every individual who had taken an exam one or more times before passing. The results in each category were:

State License (318 candidates) had a composite score of 74.97 with a 77% pass rate.

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Arkansan Heads National Group

Jim Martin, executive director of the Arkansas Appraiser Licensing and Certification Board since its creation by the legislature in 1991, was elected president of the Association of Appraiser Regulatory Officials (AARO) at its recent annual conference in Washington, D.C.

The Arkansas Board has been active in AARO since 1992. AARO's executive committee last year chose Martin to become vice president to fill a vacancy. He performed in several key leadership positions before being elevated for a year to the top post last month.

Born in Louisiana's East Carroll Parish, Martin received a B.S. degree in geology from Northeast Louisiana University in 1959. He worked five years in south Louisiana oil fields and taught high school math for a year before becoming involved in construction education with a contractors trade group in Monroe, La.

Before being hired to head up Arkansas' new appraiser regulatory agency, Martin was employed 22 years by the Arkansas Associated General Contractors, first as assistant executive director and then as manager. While with this group, his duties ranged from assisting in labor contract negotiations to managing the affairs of the organization's three di-



Jim Martin

visions and serving as legislative liaison.

During Martin's watch with the appraisal agency, it has been audited four times by the Federal Financial Institution's Examination Council Appraisal Subcommittee. Each review ended with the conclusion that "Arkansas' program functions effectively and in a manner consistent with Title XI of FIRREA of 1989."

The Sub-committee's staff often has touted the Arkansas Board as one of the top five agencies of its kind in the nation.

For 10 of the 13 years since its

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"The Appraiser" is seeking timely articles or comments on practical appraisal subjects of interest to both residential and nonresidential appraisers from appraisers, lending institutions, and other mortgage lenders. The articles or letters should be sent to the Board's office at the above address.

Entered as second class matter:

United States Postal Service

Little Rock, Arkansas 72201

Board Welcomes Bonnie K. Davis

Gov. Mike Huckabee has appointed Bonnie K. Davis, a Sherwood grandmother who expects to receive her masters degree from the University of Arkansas at Little Rock in the spring, to represent consumers on the Appraiser Licensing and Certification Board.

Her term on the Board expires in January 2007.

Davis is married to Air Force CMSgt. Glen Davis. By a previous marriage, she has three grown sons—Tommy of Bryant, Shane of Little Rock, and Clay of the home, and two grandchildren.

Born in Little Rock, Davis did not have the opportunity to attend college as a "traditional (right out of high school) student" but has made up for it since. Clay became ill and confined to a wheelchair, but he did not let this stop him from entering college in 1993 to study computer science after his mother agreed to help him.

She capitalized on the experience by obtaining her own degree in liberal arts and graduating with him in 1999 from the University of Arkansas at Little Rock. Now she is working on a masters degree in adult education.

Davis stays busy. In addition to her studies, she is a volunteer "encourager" (mentor/tutor) at a North Little Rock public school, is an education counselor for the Community College of the Air Force at LRAFB, is to become vice president of the Pulaski County Republican Women, and attends Cornerstone Bible Fellowship Church.

Davis said she expects to take any appraisal industry problems brought to by consumers to the Board's attention and work for solutions.



Bonnie K. Davis

Arkansan, from Page 1

inception, the Board operated efficiently and effectively without having a full time investigator. The level of complaints, however, escalated to the point that a full time investigator had to be hired.

Martin also cites the Board's communication efforts with licensees as a major accomplishment. The Board holds an annual continuing education seminar for appraisers and it publishes a newsletter containing information on pertinent and timely issues.

AARO was organized in October

1991, but Arkansas did not elect to join the national group until late 1992. Martin's involvement since has been deep, beginning as an at large alternate member on the Board of Directors followed by stints on the Budget and Finance Committee, the Planning and Policy Committee, and three times on the Conference Program Committee. He also served as the President's appointee to the Executive Committee representing the Board of Directors.

After he was recruited to fill the vice president vacancy in 2002, Martin automatically served as chair of the Policy and Planning

Committee and on the Executive Committee. When he was elected President-Elect, he served as chair of the Conference Program Committee, which developed and promoted two annual education conferences, including the Association's annual Board of Director and business meetings.

Martin and his wife of 42 years, the former Barbara Rose, have two grown daughters and a son and five grandchildren. The Martins live in Saline County where they are active in Calvary Baptist Church in Benton. He is a deacon and director of outreach ministries.

A Letter From Chairman McKennon —

In the last newsletter, I brought to everyone's attention that a "major change" in education requirements was coming Jan. 1, 2008. Given the complexity of these changes and the impact they will have on many registered, licensed and certified appraisers in Arkansas, please excuse my redundancy as I revisit this topic. These new requirements are just 36 months away!!!!

The education requirements that will increase are:

- ◆ State Licensed will rise from 90 hours to 150 hours.
- ◆ Certified Residential will go from 120 hours to 200 hours.
- ◆ Certified General will increase from 180 hours to 300 hours.

Your Arkansas board has been quite vocal with the Appraisal Qualifications Board (AQB) about its proposed implementation of the rules and regulations and is monitoring closely its interpretation of the implementation procedures.

The initial stance the AQB took was very rigid in that any credential (license) issued by a state appraiser regulatory body on or after Jan. 1, 2008, had to be in compliance with all components of the new AQB criteria. The AQB calls this the "Firm Date Scenario."

Under this scenario, it would not matter when an applicant completed his or her education, experience, and examination; if the license was issued on or after Jan. 1, 2008, the applicant must meet the requirements for all components of the new criteria. For obvious reasons, your Board was adamantly opposed to this implementation procedure and said so to the AQB.

The AQB since has weakened its stance and has implemented what it calls the "Segmented Scenario." Your Board supports this scenario.

Under this scenario, the requirements are broken down into three segments or components: Education, Experience, and Examination. An applicant would have to meet the criteria in effect at the time he or she completes a particular component or segment. Any component completed before Jan. 1, 2008, would satisfy the current criteria, while any component not completed by Jan. 1, 2008, would have to conform to the new criteria.

For example: an applicant for a Certified General credential completes all of the current required 180 hours of qualifying education and the required 30 months and 3,000 hours of experience in 2007 for a particular classification and submits proper documentation to the Arkansas Board before Jan. 1, 2008. He or she will be allowed to take the examination in 2008.

It is critical, therefore, that if you complete the required education between now and the end of 2007 that you notify the Arkansas Board and provide the proper documentation of your education hours BEFORE DECEMBER 31, 2007! Failure to do this will result in your having to meet the enhanced education criteria going into 2008.

If you have any questions about these issues/changes, please call our office.

In closing, the Arkansas Appraiser Licensing and Certification Board wishes each and everyone Happy Holidays and a prosperous 2008.

HUD Adopts Predatory Lending Rule

Lenders who submit appraisals to the federal Department of Housing of Urban Development (HUD) that do not meet Federal Housing Administration (FHA) standards can now be penalized for the act.

HUD adopted new rule Aug. 19 that it says is designed to make lenders accountable for the quality of appraisals performed by the appraisers the lenders hire. It strengthens HUD's regulations concerning the lenders' responsibilities when they select appraisers to determine the market value of properties that will be security for FHA insured mortgages.

"The rule will help assure that home buyers will receive accurate statements of appraised values on homes they purchase using FHA mortgage insurance," said Federal Housing Commissioner John C. Weicher, Assistant HUD Secretary for Housing.

Holding lenders accountable when appraisers they select engage in fraudulent activities is another step this Administration is taking to protect home buyers, particularly minorities, from unscrupulous predatory lending practices," Weicher continued.

Predatory lending occurs when home purchasers become unwitting victims of lenders, sellers and appraisers, often working together. The unsuspecting home buyers either purchase homes with sales prices far in excess of the fair market value, or are overcharged substantially with costs associated with obtaining a mortgage.

Opinion, from Page 1

Certified Residential (322 candidates) had a composite score of 76.36 and a 66% pass rate. **Certified General** (72 candidates) had a composite score of 73.22 and a 39% pass rate.

Another approach was to determine how well the firsttimers scored on the respective exams. To do this, we analyzed the available data from a three year period reflecting six exam cycles. These results also were enlightening. They were:

State License - 39 candidates passed, producing an 87 % pass rate; **Certified Residential** - 37 candidates, or a 78.4% pass rate;

Certified General - 15 candidates passed for a 60% success rate.

We also analyzed those indi-

viduals in this three year cycle who were taking an exam for the second (or more) time and found that **State License** candidates passed on retesting at a 6% rate; **Certified Residential** were at 7%, and **Certified General** had a 28% rate. A composite of those retested in the three classifications yielded 49 tested with only 6 passing for an across-the-board 12% pass rate.

We analyzed as well all the candidates tested by states that have PERS contracts. This produced: **State License** - 1,303 candidates and a pass rate of 77%; **Certified Residential** - 1,235 candidates with a 60% pass rate, and **Certified General** - 1,300 candidates and a 39% pass rate.

Scores of Arkansas candidates were slightly lower than these averages, i.e., **State License** - 68%;

Certified Residential - 60%; and **Certified General** - 44%. These numbers include all "repeaters," and it should be noted that some other PES states do not offer multiple opportunities to retake exams.

We looked as well at the test scores for the 15 content areas in which candidates were making the lowest scores and ranked the top five for each classification. (A score of 75 is considered passing.)

This is what we found: **State License** (318 candidates), the average score was 62 on the Income Approach subject, making it rank first; #2 was Sales Comparison Approach at 65.60; #3 Legal Considerations at 65.66; #4 Types of Value at 66.48; #5 Site Value Analysis, 67.48. Two other exam areas that were below passing were Uniform Standards at 67.71 and Influences on Value at 74.97.

Also, **Certified Residential** (322 candidates) #1 Influence on Values, 59.75; #2 Income Approach, 61.80; #3 Site Value, 66.71; #4 Real Estate Markets, 68.36; #5 Highest and Best Use, 74.18.

Certified General (72 candidates) #1 Influences on Value, 40.28; #2 Valuation, 49.07; #3 Market Analysis, 62.63; #4 Cost Approach; #5 Sales Comparison Approach 64.35.

The composite scores revealed three other subject matters scoring below passing. They were Income Approach, 71.18; Site Value, 72.92; and Legal Considerations, 73.26.

The Board hopes this information is helpful to education providers who may wish to reallocate the time they give to different subject matters. It also should help appraisal candidates by showing them where they need to focus their attention as they prepare for exams.

Education Offerings

AR Chapter of The Appraisal Institute - Contact Jennifer Coleman at (501) 227-5781. All classes will be held in Little Rock.

The Columbia Institute - Call 1-800-460-3147 for information.

Delta Seminars - Contact Mickey Lee at (870) 731-8008 for course schedules.

Lifetime Learning - Contact Dennis McElroy at (417) 887-2221. All classes are held in Springfield, Mo.

The Lincoln Graduate Center - Call 1-800-531-5333 for information.

McKissock Appraisal School - Call 1-800-328-2008.

National Association of Independent Fee Appraisers - Call 1-800-335-1751 for information.

RCI Career Enhancements - Call David Reinold (479) 968-7752.

Board Reaches Out-of-Court Agreement

The Arkansas Appraiser Licensing and Certification Board; its director, Jim Martin, and its investigator, Mary Lou Brainerd, have agreed to a settlement with the Arkansas Appraisal Foundation, Inc.; the Affiliated Real Estate Appraisers of Arkansas; and Tom M. Ferstl.

The Foundation, AREAA, and Ferstl sued the Board, Martin, and Brainerd after the Board received complaints against AREAA and Ferstl. The complaints were dismissed on April 2, 2004, by the Board due to lack of jurisdiction. The agreement is a compromise and settlement of disputed claims, and is not to be construed as an admission of liability or wrongdoing. The lawsuit was settled in order to bring finality to the litigation.

As part of the agreement, the Board agreed to publish the following four paragraphs from the settlement agreement:

1. The Board agrees to adopt an administrative rule that an appraiser is not required to provide his or her appraisal report and complete working file until the Board or a panel or committee of the Board determines that the Board has jurisdiction over the complaint and the complaint alleges a violation of the Uniform Standards of Professional Appraisal Practice, the Board's Rules and Regulations, or Ark. Code Ann. S 17-14-101 et seq.
2. The Board agrees to adopt an administrative rule that records of ongoing disciplinary proceedings and investigations shall not be disseminated by the Board or its staff to the public unless a request has been made pursuant to the Arkansas Freedom of Information Act or unless otherwise required by law.
3. The Board agrees to adopt an administrative rule in compliance with Ark. Code Ann. S 25-15-206.
4. The Board hereby acknowl-

edges that it supports the enactment of legislation to establish a statute of limitations period for complaints. The Board hereby acknowledges that it is in support of a five year statute of limitations, but it would not oppose legislation limited to establishing a three-year statute of limitations period.

The settlement was tentatively reached after a meeting that included the Board, Mr. Martin, Mrs. Brainerd, Mike Pearce on behalf of the Foundation, Mr. Ferstl, and attorneys for the various parties.

The Board approved the settle-

ment agreement during a special conference call meeting Oct. 5, after which a motion for dismissal of the lawsuit was submitted to and signed by Pulaski County Circuit Court Judge Willard Proctor Jr. The settlement brings finality to the litigation and will result in an improved procedure for processing complaints filed against appraisers by members of the public. Any person who has a suggested rule or procedure may submit such a proposal to the Board at any time. The Board requests that the proposed rule or suggested language be submitted in writing for its consideration.

NOTICE OF PUBLIC HEARING

Notice is hereby given pursuant to A.C.A. 25-15-204(a) that the Arkansas Appraiser Licensing and Certification Board will hold a public hearing on Tuesday, January 4, 2005, at 1:30 p.m. in the Board's Conference Room at 101 E. Capitol Ave., Suite 430, Little Rock, Arkansas, on proposed amendments to its rules on the practice of real estate appraisers.

The amendments to Section 1-D of the current rules and regulations establish a procedure by which a Board Panel will determine jurisdiction over a complaint in advance of the staff requesting an appraiser's work file or initiating an investigation. The revised rule requires the Board staff to respond only to inquiries about specific complaints when those inquiries are made pursuant to a Freedom of Information request.

Interested persons may appear and express their views on the proposed revisions to the Board's Rules and Regulations at the public hearing. Oral statements will be accepted, but for accuracy of record, important facts and arguments should be submitted in writing at the hearing or to the Executive Director of the Board before the hearing. For more information, or to obtain a copy of the proposed revised Rule, write to the Appraiser Licensing and Certification Board at 101 E. Capitol Ave., Suite 430, Little Rock, AR 72201 or call (501) 296-1843. The proposed rule change is available on the Board's website at www.arkansas.gov/alcb/.

Board Returns To One Seminar For Next Year

At its November meeting, the Arkansas Appraiser Licensing and Certification Board decided to return to its original format by making its "Day With the Board" seminar in 2005 a one day event in Little Rock, but it will be at a facility that will accommodate 400 to 600 participants.

This year the Board experimented with a two session seminar with one held in Springdale and the other in North Little Rock. Although both were overwhelming successes, the Board decided that the impact on the staff and the agency's travel budget plus the extraordinary effort it took to coordinate speakers and programs for the two was too great.

The Board is continuing to consider the possibility of holding two seminar sessions on an every other year basis.

Any organization of appraisers wanting to coordinate a similar seminar using Board members and/or the staff's participation has a commitment from the Board that it will be involved. However, continuing education credit for those participating in such seminars must be considered and/or preapproved by the Board before the organization starts promoting the event.

Investigation Report

Most Often Seen Mistake Noted

By Mary Lou Brainerd
Board Investigator

Since the year began, 25 Probable Cause Panels have met to consider 64 cases of complaints against Arkansas appraisers. Their recommendations were presented to and ratified by the full Board.

Of the 64 cases, 32 were referred to Non-Judicial Hearings (informal conferences), 22 were dismissed, 6 were dismissed with letters of caution issued to the appraisers, and 4 (one involving two complaints against the same appraiser) were referred to full Board hearings.

There have been 26 Non-Judicial Hearings (informal conferences) this year. The hearings were made up of 19 panels whose recommendations were presented to and ratified by the full Board. Sixteen of these cases ended in consent agreements, 6 were dismissed, and 4 were dismissed with letters of caution.

Each panel is made up of at least two Board members — usually the same members who served on the Probable Cause Panel if the case was referred for Non-Judicial Hearing.

Through Nov. 18, 59 written complaints had been received by the Board office this year. This is up slightly from the same time period last year.

Information from other state boards indicates that there has been a sharp increase in the number of complaints almost everywhere that began in 2002 and carried over into 2004.

The heavy workload many appraisers have had during this time of low interest rates could account for many of the errors that have led to complaints.

The mistake I see most often is the failure to identify the USE and USER of each report. There seems to be confusion between the terms user and client and between use and purpose.

Standards Rule 2-2 (a) (i); 2-2 (b) (i) asks for both the client and the intended user(s) to be identified. Standards Rule 2-2 (a)

(ii); 2-2 (b) (ii) and 2-2 (c) (ii) ask for the intended use to be identified. Standards Rule 2-2 (a) (v); 2-2 (b) (v) and 2-2 (c) (v) discusses the requirement for the purpose to be identified. The purpose has more to do with the type of value being sought, and the use has more to do with the understanding you have with the client about the actual reason the report is being prepared. All of this information leads to your scope of work.

Any time you have a question about an assignment, pick up the phone and call me.

ASB Provides Questions and Answers

(Editor's Note: *The Appraisal Standards Board ((ASB)) does not establish new standards or interpret existing ones. The ASB issues these questions and answers to inform appraisers, regulators, and users of appraisal services of its responses to questions that have been raised; to illustrate the applicability of the Uniform Standards of Professional Appraisal Practice ((USPAP)) in specific situations; and to offer advice for the resolution of appraisal issues and problems.*)

QUESTION: The Management section of the USPAP **Ethics Rule** requires an appraiser to disclose, ... "fees, commissions, or things of value" paid in connection with the procurement of an assignment. If a referral fee was paid in connection with the assignment, must the amount of the fee be disclosed or is it sufficient simply to disclose that a fee was paid?

RESPONSE: Disclosing that a payment was made in the appraisal certification and in any transmittal letter where the conclusions are stated is sufficient to meet the requirement. But this is a minimum requirement, and it does not prohibit full disclosure of the fee amount.

QUESTION: I am a licensed trainee with about six months of experience. My supervisory appraiser recently deemed me competent to do inspections on my own; however, many of our clients require the supervisory appraiser to inspect the property physically as well. If I do the inspection myself but take numerous representative photos of the interior of the subject property, may

my supervisory appraiser check the box indicating he "Did Inspect" the interior of the property?

RESPONSE: No. It would be misleading for an appraiser to indicate that a physical inspection was performed when, in fact, the appraiser only viewed photographs of the property. To do this would violate USPAP's prohibition against the communication of a misleading or fraudulent report (Conduct section of the **Ethics Rule**).

QUESTION: I've been looking for new clients and have found that many request sample appraisals for review, but I'm concerned this would violate appraiser-client confidentiality. To alleviate this problem, I'm considering including the following disclaimer in the "fine print" of my reports:

"The appraiser reserves the right to utilize this report in its entirety as sample work for the purpose of soliciting prospective clients unless written refusal is received from the client."

Does USPAP allow me to do this?

RESPONSE: No. The client, not the appraiser, determines who may receive the appraisal report. Including a statement like you have suggested does not constitute client authorization to distribute copies of the report.

One solution is to obtain client authorization to use each report as a work sample. An alternative may be

to redact all confidential information from the report before providing it as a sample. As stated in the Comment in the USPAP **Ethics Rule**, When all confidential elements of confidential information are removed through redaction or the process of aggregation, client authorization is not required for the disclosure of the remaining information, as modified.

QUESTION: My client, a federally insured financial institution, has asked me to provide a "value in use" appraisal instead of a market value appraisal. May I do this?

RESPONSE: USPAP does not dictate the use of any specific type or definition of value, but they must be appropriate for the intended use and intended users.

For federally related transactions, federally insured financial institutions require an opinion of market value, as defined by regulations. Therefore, if you provide a value in use, you also may have to provide a market value, depending on the intended use.

QUESTION: I just inspected a property and found an adverse condition. I informed my client (a bank), and was told not to proceed because it cannot lend on such property. Under USPAP, am I obligated to inform any other party, such as the city or county health department?

RESPONSE: No.

State Registered Renewals Due Dec. 31

Appraisers holding State Registrations are reminded their registration is on a calendar year basis, and they must be renewed with the Board by Dec. 31, 2004.

At the time the appraiser is preparing his/her renewal, these two points should be weighed:

- ◆ If the appraiser has been Registered for more than one full year, he or she is required to submit 14 hours of acceptable continuing education.
- ◆ Individuals who became Registered after July 1, 2003, and before June 30, 2004, are required to have had a 15-hour Uniform Standards course in order to renew.

In addition, State Registered appraisers should note that the Arkansas Appraiser Licensing and Certification Board has increased the annual fee to \$100, and it should accompany the statement along with any certificates documenting continuing education.

Statements have been sent to all the registered appraisers containing the applicable information about each person's criteria for renewal. Questions about the renewal process may be directed to the Board's office.

STATUS REPORT

As of December, 2004:

State Certified General	463
State Certified Residential ...	328
State Licensed	136
State Registered	448

(Includes temporary and nonresident appraisers)

NEXT LICENSING, CERTIFICATION EXAM

April 2, 2005

DEADLINE TO APPLY: Feb. 4, 2005

Potential applicants should contact the Board's staff for current information about application process, exam schedules, fees, and other licensing matters by calling (501) 296-1843, or use the website at www.state.ar.us/alcb/.

Or write to the Appraiser Licensing and Certification Board, 101 E. Capitol Ave., Suite 430, Little Rock, Arkansas 72201.

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